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DAVID J. KILLIAN, ANTHONY M. MAROTTA,
and ROSA COURT, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VINCENT KAMYAR VAGHAR,
Plaintiff,

v.

DAVID J. KILLIAN; ANTHONY M.
MAROTTA; and ROSA COURT, LLC, a
New Jersey limited liability company,
Defendants.

Case No. C 07 4083 MMC

**DEFENDANTS DAVID J. KILLIAN,
ANTHONY M. MAROTTA AND ROSA
COURT, LLC'S *EX PARTE* APPLICATION
TO CONTINUE HEARING ON
DEFENDANTS' MOTION TO DISMISS
SECOND AMENDED COMPLAINT OF
PLAINTIFF VINCENT KAMYAR
VAGHAR OR, IN THE ALTERNATIVE,
TO TRANSFER VENUE
[LOCAL RULE 7.7]**

Date: July 18, 2008
Time: 9:00 a.m.
Dept.: Courtroom 7
Judge: Honorable Maxine M. Chesney

TO THE HONORABLE MAXINE M. CHESNEY:

Defendants David J. Killian, Anthony M. Marotta and Rosa Court, LLC
(collectively, "Defendants") hereby submit their *ex parte* application (the "Application") to
continue Defendants' Motion to Dismiss Second Amended Complaint of Plaintiff Vincent
Kamyar Vaghar or, in the Alternative, to Transfer Venue (the "Motion") presently set for hearing
on July 18, 2008 at 9:00 a.m. as follows:

1 1. The above action (the “Action”) was commenced on August 8, 2007 by the
2 filing of the Complaint for Breach of Contract and Demand for Jury Trial by Plaintiff Vincent
3 Kamyar Vaghar (“Vaghar”).

4 2. On or about September 5, 2007, Vaghar filed his Second Amended
5 Complaint for Breach of Contract – Demand for Jury Trial.

6 3. On October 5, 2007, Defendants filed their Motion which was initially set
7 for hearing on November 16, 2007 at 9:00 a.m. in the above Court. Vaghar has filed his
8 opposition to the Motion and Defendants have filed their reply pleadings.

9 4. On November 14, 2007, the Court approved the Stipulation and Order to
10 Stay Initial Disclosures and Case Management Conference, which included, in part, the order that
11 Defendants’ Motion was vacated pursuant to Civil Local Rule 7-1(b).

12 5. On July 3, 2008, the Court entered the order setting Defendants’ Motion
13 for hearing on July 18, 2008 at 9:00 a.m.

14 6. Vaghar and Defendants are presently in settlement negotiations and expect
15 that they will be able to settle the Action within the next two weeks.

16 7. Counsel for Vaghar and Defendants met and conferred on Defendants’
17 filing of the Application on July 16, 2008 in several telephone conversations. Plaintiff did not
18 indicate any opposition to the Application, but did not have the authority to execute a stipulation
19 to continue the hearing on the Motion.

20 8. Defendants contend that no prejudice will result in a short continuation of
21 the hearing on the Motion and will provide the parties with sufficient time to address their
22 ongoing settlement discussions.

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1 Based on the foregoing, Defendants respectfully request that the Court grant this
2 Application and continue the hearing on Defendants' Motion for approximately one month to
3 August 15, 2008 at 9:00 a.m.

4 Dated: July 16, 2008

STEIN & LUBIN LLP

6 By: /s/ Dennis D. Miller

Dennis D. Miller

Attorneys for Defendants

7 DAVID J. KILLIAN, ANTHONY M. MAROTTA,
8 and ROSA COURT, LLC